

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EMANUEL DELEON FIELDS,)	
ID # 1127671,)	
Petitioner,)	
vs.)	No. 3:05-CV-2075-D
)	
NATHANIEL QUARTERMAN, Director,)	
Texas Department of Criminal)	
Justice, Correctional Institutions Division,)	
Respondent.)	

ORDER OF THE COURT ON RECOMMENDATION
REGARDING CERTIFICATE OF APPEALABILITY

Considering the record in this case and the recommendation of the Magistrate Judge, and pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253 (c), the Court hereby finds and orders:

IFP STATUS:

- ☒ the party appealing is GRANTED *in forma pauperis* status on appeal.
☐ the party appealing is DENIED *in forma pauperis* status on appeal
for the following reasons:

- ☐ the Court certifies, pursuant to Fed. R. App. P. 24(a) and 28 U.S.C. § 1915 (a) (3), that the appeal is not taken in good faith. In support of this finding, the Court adopts and incorporates by reference the Magistrate Judge's Findings and Recommendation entered in this case on _____. Based upon the Magistrate Judge's findings, this Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous. See *Harkins v. Roberts*, 935 F. Supp. 871, 873 (S.D. Miss. 1996) (citing *Howard v. King*, 707 F. 2d 215, 219-20 (5th Cir. 1983)).
- ☐ the person appealing has not complied with the requirements of Rule 24 of the Federal Rules of Appellate Procedure and /or 28 U.S.C. § 1915(a)(1) as ordered by the Court.

COA:

- ☐ a Certificate of Appealability is GRANTED on the following issues: _____
- ☒ a Certificate of Appealability is DENIED. The Court hereby adopts and incorporates by reference the Findings, Conclusions and Recommendation of the United States Magistrate Judge, filed on **February 26, 2008**, in support of its finding that petitioner has failed to make a substantial showing of the denial of a constitutional right. See *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003); *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000); 28 U.S.C. § 2253(c)(2).

DATE: June 10, 2008.


SIDNEY A. FITZWATER
CHIEF JUDGE